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INTERNATIONAL COOPERATION TO STUDY, MITIGATE AND MINIMIZE THE CONSEQUENCES OF THE DISASTER AT CHERNOBYL

ECONOMIC AND SOCIAL COUNCIL
Second regular session of 1991
INTERNATIONAL COOPERATION TO STUDY, MITIGATE AND MINIMIZE THE CONSEQUENCES OF THE DISASTER AT CHERNOBYL

Report of the Secretary-General

I. INTRODUCTION

1. The present report has been prepared in response to General Assembly resolution 45/190 of 21 December 1990 on international cooperation to address and mitigate the consequences of the accident at the Chernobyl nuclear power plant.

II. ACCIDENT AT THE CHERNOBYL NUCLEAR POWER PLANT

A. The accident

2. On 26 April 1986, an accident occurred at the Chernobyl nuclear plant in the Ukrainian Soviet Socialist Republic, which destroyed unit 4 of the reactor core, resulting in the release of radioactive substances into the environment. Many people died as a direct result of the accident, and many more are reported to have died as a result of containing it and of their involvement in clean-up operations. (The full impact of the accident on the health of the affected population will not be fully known for years to come.) As a further consequence, some 131,000 square kilometres of the Byelorussian Soviet Socialist Republic, the Ukrainian SSR and the Russian Soviet Federative Socialist Republic became radioactively contaminated to varying degrees. The lives of the inhabitants of the affected regions were severely disrupted; work

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* A/46/50.

at a number of industrial enterprises was halted; and large areas of agricultural and forest land were put out of use.

B. Measures undertaken by the Soviet authorities

3. A Government Commission, headed by the Deputy Chairman of the Council of Ministers, and including experts in nuclear physics, power engineering, health care, biology, environmental protection, as well as heads of ministries and departments of the Union of Soviet Socialist Republics and union republics, was established to alleviate the consequences of the accident. A number of important measures have been undertaken, including making initial assessments of the extent of damage and radiation; taking action to prevent further emissions from the damaged reactor; identifying areas exposed to contamination and evacuating inhabitants and farm animals from a 30-kilometre zone (some 116,000 people were evacuated from the high risk zone in 1986); constructing an "encasement" of the destroyed power unit; decontaminating the working area of the plant; undertaking measures to protect water and land resources; decontaminating settlements; stabilizing radiation in the 30-kilometre zone and other areas; constructing housing; organizing and carrying out extensive medical examinations, and establishing dosimetric surveillance of populations and farm animals. Since the accident, over a million people have undergone medical check-ups.

4. Despite these significant efforts, however, it became increasingly clear that the dimension and complexity of the problem were far greater than originally estimated, and that in many respects it was difficult to assess them completely and, therefore, to ensure the safety of the people already affected, or likely to be affected in the future.

5. This realization ultimately brought about a single, State Union-Republic programme of urgent measures to overcome the consequences of the accident, adopted by the Supreme Soviet of the USSR in April 1990. Earlier programmes had been adopted by the Byelorussian SSR for the period 1990-1995, and by the Ukrainian SSR for the period until the year 2000. A similar programme for 1990-1995 has been adopted by the Russian SFSR. An overall coordinating USSR Committee on the Elimination of the Consequences of the Chernobyl Accident was set up, together with corresponding state committees, all charged with organizing and coordinating efforts to address the wide range of critical problems relating to the aftermath of the accident.

6. In addition, a "Concept for Safe Living" was adopted, setting out the criteria for practical measures to minimize the effects of the accident. In the context of this programme, 87,900 people were resettled in 1990, and 119,000 are expected to be resettled in 1991. It is hoped that during the period 1990-1992, a total of 218,900 persons will have been moved to clean areas, and that some 4 million square metres of housing and other facilities will have been constructed by end 1991, with adequate employment opportunities offered in resettled areas.

7. International, intergovernmental and non-governmental organizations, as well as institutions from the private sector, and individuals, have begun to play a significant role in assisting with the implementation of a number of the measures proposed.

II. INVOLVEMENT OF THE UNITED NATIONS SYSTEM

8. A number of organizations of the United Nations system were among those which offered cooperation at an early stage. Subsequently, in April 1990, the Governments of the USSR, the Byelorussian SSR and the Ukrainian SSR requested the inclusion of an item on international cooperation in relation to the Chernobyl accident in the agenda of the first regular session of 1990 of the Economic and Social Council. As a result, in May 1990, Chernobyl was a major item of discussion at the meeting of the Administrative Committee on Coordination (ACC). Thereafter, the Secretary-General requested the Executive Secretary of the Economic Commission for Europe (ECE) to prepare a report on activities of the United Nations system in relation to the consequences of the accident, to assist the Economic and Social Council in its deliberations on this item at its second session in the summer of 1990.

9. Thereafter, the Secretary-General launched a fact-finding mission to the affected areas in September 1990, headed by the Executive Secretary of ECE and comprising representatives of the United Nations Centre for Human Settlements, the Office of the United Nations Disaster Relief Coordinator, the United Nations Environment Programme, the United Nations Children's Fund, the United Nations Office at Vienna and the Department of Technical Cooperation for Development of the Secretariat. Its findings provided the basis of the Secretary-General's report to the forty-fifth session of the General Assembly (A/45/643), which elaborated the activities already under way or planned by the organizations of the United Nations system (notably the International Atomic Energy Agency, the World Health Organization, and the United Nations Educational, Scientific and Cultural Organization). Several of these organizations are members of the Inter-Agency Committee on Response to Nuclear Accidents.

III. GENERAL ASSEMBLY RESOLUTION 45/190 AND RELATED ACTION

10. After considering the report, the General Assembly, taking into account the activities by the United Nations system, and recognizing the importance of completing international assessment of the radiological consequences of the accident coordinated by IAEA, the results of which are to be published in late May 1991, adopted resolution 45/190, by which it invited the Secretary-General to formulate a programme for coordinating the activities of the organizations of the United Nations system involved in efforts to address and mitigate the consequences of the accident; entrust one of the Under-Secretaries-General with the task of coordination; establish a task force responsible for stimulating and monitoring activities of the United Nations system; and launch an appeal for voluntary contributions from Member States to complement the

regular budgetary resources used by the United Nations organizations and agencies for alleviating the consequences of the accident.

11. By his letter of 11 March 1991, the Secretary-General informed the heads of organizations and agencies of the United Nations system that he had appointed the Director-General of the United Nations Office at Vienna as United Nations Coordinator for international cooperation to the areas affected by the Chernobyl accident, and requested their fullest support and cooperation. At the same time, notes verbales were transmitted to Member States reiterating the Secretary-General's strong support for the General Assembly's urgent appeal to the international community, and requesting generous contributions for activities to mitigate the consequences of the accident.

IV. ACTIVITIES OF THE UNITED NATIONS COORDINATOR

"Master plan" of assistance requirements

12. Simultaneously, and with the help of the IAEA, UNEP/UNSCEAR and DTCD, the United Nations Coordinator established a small core secretariat in her office in Vienna. She has held extensive discussions there with the authorities of the USSR and the affected areas, and their representatives in Vienna and New York, as to the nature and scope of a "master plan" document of assistance requirements, and submitted an outline to them for guidance. This is to be submitted to a meeting of donor countries, which will be convened on 20 September, in New York, and presided over by the Secretary-General.

13. In these discussions, the United Nations Coordinator reiterated that the thrust of assistance should be on the economic and social consequences of the accident since the radiological and scientific aspects are being covered by the independent international radiological assessment project coordinated by IAEA. It was also agreed that the plan should include concrete, prioritized project proposals, directly addressing urgent humanitarian needs.

14. On 10 April, the United Nations Coordinator dispatched a staff member to Moscow, Kiev and Minsk to cooperate with the All-Union Committee and the Committees of the three affected republics in the further elaboration of this "master plan".

Inter-Agency Task Force

15. Following upon the Secretary-General's letter of 11 March, the United Nations Coordinator wrote on 19 March to heads of agencies and organizations of the United Nations system, informing them of the Secretary-General's intention to establish an inter-agency task force responsible for stimulating and monitoring activities of the United Nations system in relation to the aftermath of the Chernobyl accident, in accordance with paragraph 1 (c) of General Assembly resolution 45/190. The Task Force was formally set up at the meeting of ACC held in Paris from 17 to 19 April at which the United Nations Coordinator presented her progress report.

16. The Task Force has been established at a high level to give due regard to the magnitude of the problem and the wide-ranging and unprecedented scope and nature of assistance required, and to ensure rapid decisions on any policy and substantive questions which may arise. It comprises representatives of those agencies and organizations which, by virtue of their mandates, can provide direct and relevant assistance and advice, particularly in the critical sectors of health, agriculture, environmental and energy planning, resettlement, education and public information, industry and infrastructure. At the time of writing, the membership includes WHO, UNIDO, UNFPA, UNCHS, FAO, DTCD, UNEP and IAEA, but more responses are being received.

17. The Task Force is now closely involved in all aspects of the international assistance effort. Individual project proposals were forwarded to each organization in accordance with its mandate, for technical comments, and views as to their feasibility for execution. A first meeting is to be convened on 24 May to coincide with the presence in Vienna of the representatives of each of the Chernobyl committees set up in the USSR and the three republics, to finalize the "master plan" document.

18. The Task Force will work in close cooperation with the Inter-Agency Committee on Response to Nuclear Accidents to benefit from its technical appraisal of project proposals.

United Nations Coordinator's mission to the USSR and affected republics

19. At the invitation of the Governments concerned, the United Nations Coordinator visited the USSR and the three republics affected by the Chernobyl accident, from 23 to 29 April 1991, accompanied by staff of her secretariat, and one representative each of ECE and UNDP, as well as the Director of the United Nations Information Centre in Moscow.

20. The main purpose of the visit was to come to final agreement with the government authorities, as well as with the Chairmen and senior staff of the various committees established in Moscow, Kiev and Minsk, on urgent remaining action required to finalize the "master plan" document. The timing of the visit also enabled the United Nations Coordinator to represent the Secretary-General on the occasion of the fifth anniversary of the accident. Thus on 26 April she delivered a message and appeal at a memorial concert in Minsk, before a live audience and with wide television coverage within the Soviet Union, and in parts of Europe and Latin America.

21. The mission entailed intensive discussions at the highest levels of government as well as technical meetings with the state committees established to address the consequences of the accident. It also included visits to the damaged reactor and to other heavily contaminated areas, as well as to a "resettled" village, and several clinics and hospitals.

22. The visit pointed up in stark terms the many scientific uncertainties still surrounding the Chernobyl question, compounded by the difficult situation with regard to the economy and other local factors. It also brought

acutely to the fore the grievous situation in which the many victims of this accident continue to find themselves, and the severe stress and anxiety to which they are constantly subjected, for health reasons and other less tangible but equally significant factors.

23. All the concerned authorities accepted the "master plan" concept, and the coordinated and concerted approach which it entails, since it presents the requirements for assistance of all the republics concerned. It was also agreed that the views of the non-governmental organizations and the affected communities should be taken into account.

24. The authorities moreover strongly supported the United Nations Coordinator's suggestion that urgent efforts be pursued to ensure that the momentum of media coverage and surge in public interest and concern emanating from the fifth anniversary commemoration be maintained, and that diplomatic representations continue to be undertaken by the Governments concerned with potential donors.

25. A revised and elaborated version of the "master plan" document, supported by individual project proposals, was received in Vienna on 6 May, the deadline agreed during the visit.

Future action

26. The "master plan" will be reviewed and finalized by a working group being convened in Vienna on 21 May, comprising staff of the core secretariat for Chernobyl, as well as one representative from the USSR and each of the affected republics. As indicated in paragraph 17 above, individual project proposals have been sent to appropriate organizations of the United Nations system, and members of the Inter-Agency Task Force have been invited to participate in a meeting to be held in Vienna on 24 May to discuss this document. It is then hoped to circulate it by early June to potential donor Governments for review, in advance of the donors' meeting.

27. Following discussion of the item on Chernobyl at the second regular session of the Economic and Social Council, work will begin on the preparation of the Secretary-General's report to the General Assembly at its forty-sixth session, which will also take into account the outcome of the donors' meeting.

V. CONCLUSION

28. The disaster at the Chernobyl nuclear plant is unique in that, despite the five-year lapse since it occurred, its consequences are still not clear and will not be fully known for many years to come. The accident has, moreover, an international dimension not only because its insidious effects have transcended national boundaries, but also because there are important lessons to be learned from its aftermath by countries world wide.

29. It therefore follows that actions undertaken in response to General Assembly resolution 45/190 constitute only the beginning of a continuing and constantly evolving process. The decision adopted by ECE in April 1991, which endorses the basic tenets of the resolution, is an important step in this regard. However, the extent to which effective international assistance of the magnitude required can materialize will obviously depend upon the willingness of the international community as a whole to respond to the needs brought on by the Chernobyl disaster, the impact of which will continue to be felt for years to come not only by those immediately affected, but also by the world at large.

30. It is therefore hoped that potential donors - Governments, non-governmental organizations, institutions, the private sector and individuals alike - will respond and give practical and financial support to the implementation of the "master plan", notwithstanding the other many demands on their resources.

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DEVELOPMENT AND INTERNATIONAL ECONOMIC COOPERATION: ENVIRONMENT

Traffic in and disposal, control and transboundary movements of toxic and dangerous products and wastes

Report of the Secretary-General

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* A/46/50.

I. INTRODUCTION

1. In its resolution 44/226 of 22 December 1989, entitled "Traffic in and disposal, control and transboundary movements of toxic and dangerous products and wastes", the General Assembly requested the Secretary-General to report on the following three topics: (a) traffic in toxic and dangerous products and wastes; (b) protection against products harmful to health and the environment; and (c) control of transboundary movements of hazardous wastes and their disposal. Details on the history and progress of implementation are found in the relevant sections below.

II. TRAFFIC IN TOXIC AND DANGEROUS PRODUCTS AND WASTES

2. The General Assembly, by its resolution 44/226, requested the regional commissions to report to the Economic and Social Council, as from 1990, on the implementation of part I of the resolution which calls for each regional commission to contribute to the prevention of the illegal traffic in toxic and dangerous products and wastes by monitoring and making regional assessments of the illegal traffic and its environmental and health implications on a continuing basis. As requested, in 1990, the regional commissions reported for the first time to the Economic and Social Council on the status of the implementation of the resolution. They did so in the context of the Secretary-General's report on regional cooperation (E/1990/84, chap. V). As stated in the report, all the regional commissions had found that it would be very difficult to undertake any meaningful activities aimed at the implementation of the resolution from within existing resources. This unfavourable situation has continued to prevail until now and only the Economic Commission for Africa (ECA) is able to report on developments that took place since last year.

Economic Commission for Africa

3. The Commission submitted a report on the implementation of Economic and Social Council decision E/1990/1.14-D, as a contribution to its report to the Council's second regular session of 1990. It was entitled "Interregional cooperation in the monitoring and assessment of illegal traffic in toxic and dangerous products and wastes".

4. Since the Council's 1990 session, a number of African countries have signed the African Convention on the Ban on the Importation into Africa of all Forms of Hazardous Wastes and the Control of the Transboundary Movement of such Wastes, generated in Africa. They did so during the Pan-African Conference on Environment and Sustainable Development, held at Bamako in January 1991. The African Convention has adopted the definitions of the Basel Convention and has expanded it. The Convention now bans all imports of hazardous wastes into Africa and also includes nuclear wastes.

5. ECA has included the monitoring of hazardous and toxic wastes in its regular work programme. Its secretariat is preparing guidelines on the monitoring of movements and the dumping of hazardous wastes. They will be examined by an expert group meeting before being released. A report on the status of the dumping of hazardous industrial wastes and toxic materials in Africa is also under preparation.

6. A more fully operational monitoring and assessment programme will require more resources than are now available in ECA. General Assembly resolution 44/226 cannot be fully implemented unless sufficient resources are allocated and the activity institutionalized. Regional commissions must have an operational unit within the environment section to carry out the following tasks:

(a) Collect data on the illegal traffic in hazardous wastes and toxic products, which should include the status of exports, the status of possible imports and the nature of the wastes and products, among other things;

(b) Carry out studies on the nature and possible impact of these wastes and products on human health and the environment;

(c) Develop appropriate technical guidelines for monitoring and assessing the impact of the movement of all dangerous products, including illegal traffic;

(d) Establish a network of national agencies concerned with toxic products, to be coordinated by the ECA secretariat;

(e) Assist member States in developing national policies, a legislative framework and administrative mechanisms for monitoring and controlling the movement of hazardous wastes and toxic products;

(f) Encourage the development and facilitate the transfer of technologies that will contribute to effective monitoring and assessment;

(g) Promote the exchange of information between member States, between subregions and between regions so as to effectively monitor the movement of hazardous wastes and toxic products, thus promoting concerted action against undesirable traffic.

7. The Commission will continue to carry out the monitoring and assessment exercise within the limitations of its resources, in cooperation with subregional and regional institutions and with national agencies.

III. PROTECTION AGAINST PRODUCTS HARMFUL TO HEALTH AND THE ENVIRONMENT

8. Part II of resolution 44/226 entitled "Protection against products harmful to health and the environment" was adopted following the consideration by the Assembly of the Secretary-General's report on the subject (A/44/276-E/1989/78).

9. That report had been prepared pursuant to General Assembly resolutions 37/137, 38/149 and 39/229, as well as Economic and Social Council resolution 1986/72. These resolutions form the mandate for the production of the regular updates of the Consolidated List of Products Whose Consumption and/or Sale Have Been Banned, Withdrawn, Severely Restricted or Not Approved by Governments. They also address the need to keep the format of the List under continuing review, in cooperation with the relevant organizations of the United Nations system, with a view to its improvement, taking into account its complementary nature, the experiences obtained and the views expressed by Governments. Accordingly, the Secretary-General is requested to submit a report every three years to the General Assembly on products harmful to health and the environment. The next triennial report will be considered by the Council in 1992 and the Assembly at its forty-seventh session.

10. The current resolution requests the Secretary-General to cover in his review ways and means of providing technical cooperation, including through appropriated United Nations organizations, to countries, in particular developing countries, to create and strengthen their capacity to utilize the List. In addition, he is to study all the pending issues, such as sustainable alternatives to banned and severely restricted and unregistered pesticides, with a focus on improving the usefulness of the List.

11. The Secretary-General is further requested to ensure, within existing resources, the publication of the List in English, French and Spanish, in accordance with demand, bearing in mind General Assembly resolution 39/229. He is to undertake a special effort to ensure a wider dissemination and utilization of the List, involving non-governmental organizations in this process.

12. The fourth issue of the List, which contains information on restrictive regulatory measures taken by 92 Governments on over 600 products, will be published in 1991 in English, with Spanish and French translations being published shortly thereafter. The List will be disseminated to all Member States and widely promoted as a sales document.

13. The United Nations Secretariat, which publishes the List, works closely with a number of non-governmental organizations in order to ensure the widest possible dissemination of the List. Indeed, many of these organizations, including the International Organization of Consumers Unions, Pesticides Action Network, Greenpeace, and many national non-governmental organizations, are active not only in publicizing the List to their members, but in using it in lobbying for appropriate legislation to be adopted by individual Governments.

14. With regard to the requests contained in paragraph 8 of the resolution, the United Nations Secretariat will be holding consultations in 1991 with the various agencies and organizations of the United Nations system whose work has a bearing on the List, with a view to providing the information requested in the next triennial review.

IV. CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

15. In resolution 44/226, section III, the General Assembly: (a) requested the Executive Director of the United Nations Environment Programme (UNEP), in accordance with the resolutions adopted at the Basel Conference, to establish, on the basis of equitable geographical representation and in consultation with Governments, an ad hoc working group of legal and technical experts to develop, as early as practicable, elements that might be included in a protocol on liability and compensation for damage resulting from the transboundary movement and disposal of hazardous wastes and to report to the preparatory committee of the United Nations Conference on Environment and Development and to the Governing Council of UNEP, in accordance with its mandate in this regard; (b) invited the Executive Director of UNEP and the Secretary General of the International Maritime Organization (IMO), in consultation, as appropriate, with other relevant international organizations, to review the existing rules, regulations and practices with respect to the disposal of hazardous wastes at sea, in order to harmonize the provisions of the relevant conventions as adopted in this regard; (c) requested the Secretary-General, in cooperation with the Executive Director of UNEP, to report to the General Assembly at its forty-sixth session, through the Economic and Social Council, on the progress achieved in the implementation of the provisions of the Basel Convention.

A. The work of an ad hoc working group of legal and technical experts to develop elements which might be included in a protocol on liability and compensation for damage resulting from the transboundary movement and disposal of hazardous wastes

16. The Basel Convention, in its article 12 on consultations on liability, states that the Parties shall cooperate with a view to adopting, as soon as practicable, a protocol setting out appropriate rules and procedures in the field of liability and compensation for damage resulting from the transboundary movement and disposal of hazardous wastes and other wastes.

17. The Basel Conference, in its resolution 3 entitled "Liability", adopted on 22 March 1989, requested the Executive Director of UNEP to:

(a) Establish, pending a decision by the Parties at their first meeting on how to implement article 12 of the Convention, an ad hoc working group of legal and technical experts to develop elements which might be included in a

protocol on liability and compensation for damage resulting from the transboundary movement and disposal of hazardous wastes and other wastes;

(b) Report on the results of this group's work to the first meeting of the Parties.

18. By its resolution 44/226, part III, paragraph 2, the General Assembly also requested the Executive Director of UNEP, in accordance with the resolutions adopted at the Basel Conference, to establish, on the basis of equitable geographical representation and in consultation with Governments, an ad hoc working group of legal and technical experts to develop, as early as practicable, elements which might be included in the protocol.

19. The Executive Director of UNEP duly convened the Ad Hoc Working Group of Legal and Technical Experts. It held two sessions: the first in Geneva from 2 to 6 July 1990 and the second in Nairobi from 6 to 9 March 1991. Experts from 61 countries (including 38 developing countries), chosen on the basis of equitable geographical representation, attended the sessions.

20. The Working Group had before it a working document containing an outline prepared by the UNEP secretariat following an informal consultative meeting convened by the Executive Director in Geneva from 30 April to 2 May 1990. During these two sessions, the Working Group was able to complete its work by agreeing on the elements which might be included in the protocol.

21. The elements agreed by the Working Group are as follows:

Introduction

I. Purpose of the liability protocol

II. Scope of application

III. Definitions

Part one: Civil liability and compensation

IV. Channelling of liability

V. Exoneration from liability

VI. Financial limits of liability

VII. Time-limit of liability

VIII. Insurance and other financial guarantees

Part two: International liability and compensation

IX. Need for a comprehensive international liability regime with or without elements of State liability

X. Fund(s)

Part three: Procedures

XI. Claims procedure

XII. Jurisdiction of domestic courts

XIII. Applicable law

XIV. Mutual recognition and enforcement of judgements

XV. Relationship of the protocol to other bilateral, multilateral and regional agreements

XVI. Date of application

22. These elements should provide for a comprehensive regime which will ensure adequate and prompt compensation from damage from the transboundary movement and disposal of hazardous wastes and other wastes, and encourage the protection of human health and the environment.

23. On 9 March 1991, the Executive Director received a letter from the Chairman of the Working Group informing him that the Group recommended that the elements of the protocol should be submitted to the Conference of the Parties to the Basel Convention at its first meeting.

B. Progress in the review of existing rules, regulations and practices with respect to the disposal of hazardous wastes at sea

24. In resolution 2 on the relationship between the Basel Convention and the London Dumping Convention, adopted on 21 March 1989, the Basel Conference:

(a) Invited the Executive Director of UNEP to bring to the attention of the Parties to the London Dumping Convention through the Secretary-General of the International Maritime Organization (IMO) the need for a review of the existing rules, regulations and practices with respect to the dumping of hazardous and other wastes at sea in the light of the Basel Convention with a view to recommending any additional measures needed within the London Dumping Convention, including its annexes, in order to control and prevent the dumping of hazardous and other waste at sea;

(b) Invited the Executive Director of UNDP to report on the results of the review and recommendations above to the Conference of the Parties to the Basel Convention at its first meeting.

25. Also, in its resolution 7 on cooperation between IMO and UNEP in the review of existing rules, regulations and practices with respect to transport of hazardous wastes by sea, the Basel Conference:

(a) Invited the Executive Director of UNEP and the Secretary-General of IMO in consultation, as appropriate, with other relevant international organizations, to review the existing rules, regulations and practices with respect to the transport of hazardous wastes by sea in the light of the Basel Convention with a view to recommending any additional measures needed, including information, documentation and other precautionary measures, in order to assist coastal States, flag States, and port States in fulfilling their responsibilities with respect to the protection and preservation of the marine environment;

(b) Invited the Executive Director of UNEP to report on the results of the review and recommendations referred to in subparagraph (a) above to the Conference of the Contracting Parties to the Basel Convention at its first meeting.

26. The General Assembly, in its resolution 44/226, section III, paragraph 3, invited the Executive Director of UNEP and the Secretary-General of IMO, in consultation, as appropriate, with other relevant international organizations, to review the existing rules, regulations and practices with respect to the disposal of hazardous wastes at sea, in order to harmonize the provisions of the relevant conventions as adopted in this regard.

27. Apart from the Basel Convention, there are several international legal instruments, both binding and recommendatory, relevant to the transport of hazardous wastes by sea. IMO acts as a secretariat for the following international legal instruments:

(a) The Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Dumping Convention, 1972);

(b) The International Convention for the Prevention of Pollution from Ships, as amended (MARPOL Convention, 1973);

(c) The International Convention for the Safety of Life at Sea (SOLAS Convention, 1974);

(d) The International Maritime Dangerous Goods Code (IMDG Code);

(e) The Code of Safe Practice for Solid Bulk Cargoes (SB Code).

28. Although such codes are not internationally enforceable, they nevertheless have an impact upon the practices of member States of IMO,

because many of them incorporated the codes (or part of them) into their national regulatory system. In order to avoid any possible inconsistencies and overlaps between the Basel Convention and these legal instruments, steps should be taken to harmonize the provisions in question.

29. At its sixteenth session held in October 1989 the IMO Assembly discussed the relationship between the Basel Convention and the conventions concluded under the auspices of IMO. It adopted resolution A.676(16) which requested the IMO Maritime Environment Protection Committee and the IMO Maritime Safety Committee to review existing rules and practices governing the transport of hazardous wastes at sea. Both Committees will recommend any additional measures needed in order to help States to fulfil their responsibilities in this field. They have been requested to report their findings to the IMO Assembly at its next session in 1991.

30. The Interim Secretariat of the Basel Convention has been cooperating with the IMO Subcommittee on the Carriage of Dangerous Goods (CDG) which is amending the IMDG Code in order to ensure that the prior informed consent procedure as set forth in the Basel Convention is adequately reflected in the IMDG Code.

31. In addition to its collaboration with IMO, the Interim Secretariat made a suggestion at the sixteenth session of the United Nations Committee of Experts on the Transport of Dangerous Goods in December 1990 that informal inter-agency consultations should be held to discuss, inter alia, the international classification of hazardous wastes subject to transboundary movements. The purpose of this suggestion is to harmonize the criteria governing the transport of dangerous goods with the list of hazardous characteristics of the wastes subject to the Basel Convention. The Interim Secretariat and the UN/ECE Transport Division held a first meeting in March 1991.

32. With regard to the relationship between the Basel Convention and the London Cumping Convention, UNEP has been cooperating with the secretariat of the London Dumping Convention in order to implement resolution 2 of the Basel Conference as early as possible.

33. UNEP undertook a study on the relationship between the two Conventions. On the basis of this study, IMO, which is responsible for the administration of the London Dumping Convention (LDC), presented a report to the twelfth Consultative Meeting of the Contracting Parties, held in London from 30 October to 3 November 1989. At the meeting, UNEP made a brief presentation on the Basel Convention. The meeting decided that the report of the LDC secretariat should form the basis for a further review to be carried out by the Contracting Parties. They were invited to submit their comments and proposals concerning this report. Only two replies were received from Governments by 31 August 1990.

34. The Ad Hoc Group of Legal Experts on Dumping and the thirteenth Consultative Meeting of the Contracting Parties met in London from 22 October to 2 November 1990. In the course of discussion the following comments were made:

(a) The Basel Convention, which is concerned specifically with the transboundary movements of hazardous wastes, contains provisions for dumping at sea in transboundary movements. In this regard, the provisions of the Basel Convention overlap with those of the LDC.

(b) The LDC does not contain any provisions related to requirements for transboundary movements of wastes and other matters. However, resolution LDC.29(10) on export of wastes for disposal at sea, adopted by the Tenth Consultative Meeting of the Contracting Parties to the LDC, called on Contracting Parties exporting wastes for sea disposal to provide advance notification of any intended movement of such wastes to the receiving country and any other country and to obtain the prior consent of the appropriate national authorities in any country receiving wastes and issuing required permit for sea disposal. Such requirements have not yet been developed in the framework of the LDC.

(c) The applicability of article 30 of the Vienna Convention on the Law of the Treaties (application of successive treaties relating to the same subject-matter) to the relationship between the Basel Convention and the LDC and the compatibility of the two Conventions were questioned.

(d) In view of the differences between the two Conventions, they should be studied in greater detail. Such a study, which should be conducted jointly by the LDC secretariat and the Interim Committee, would involve a compilation and comparison of existing requirements under the respective convention.

35. The Ad Hoc Group of Legal Experts on Dumping submitted a draft resolution to the thirteenth Consultative Meeting of the Contracting Parties which they adopted. In the resolution, the thirteenth Consultative Meeting recommends that, for the dumping at sea of weastes by the Contracting Parties, standards compatible to those imposed by the Basel Convention should be developed. The Ad Hoc Working Group of Legal Experts on Dumping was requested by the Consultative Meeting to further elaborate such standards and to report to the fourteenth Consultative Meeting of the Contracting Parties to be held in November 1991. The Contracting Parties were invited, after the conclusion of the work of the Ad Hoc Group of Legal Experts on Dumping, to consider including the agreed future standards in an amendment of or annex to the LDC.

C. Progress in the implementation of the resolutions of the Basel Conference

36. The Conference of Plenipotentiaries on the Global Convention on the Control of Transboundary Movements of Hazardous Wastes (Basel Conference), which was convened by the Executive Director of the United Nations Environment

Programme (UNEP) pursuant to decision 14/30 of the Governing Council of UNEP on 17 June 1987, met in Basel, Switzerland from 20 to 22 March 1989 and adopted the Basel Convention together with eight substantive resolutions (see UNEP/1980/3).

37. By the end of April 1991, 53 countries had signed the Basel Convention and 10 had ratified, approved or acceded to it. In accordance with article 25, paragraph 1 of the Convention, it enters into force on the ninetieth day after the date of deposit of the twentieth instrument of ratifications, acceptance, formal confirmation, approval or accession. The first meeting of the Conference of the Parties, pursuant to article 15, paragraph 1 of the Convention, will be convened by the Executive Director of UNEP not later than one year after its entry into force.

38. In article 16, paragraph 2, the Basel Convention states that "the secretariat functions will be carried out on an interim basis by UNEP until the completion of the first meeting of the Conference of the parties held pursuant to article 15". The Basel Conference, by its resolution 6, requested the Executive Director of UNEP to take steps necessary for the Interim Secretariat to start work as soon as possible after the adoption of the Convention. The Interim Secretariat for the Basel Convention (ISBC) was established with UNEP in November 1989.

39. While the Basel Convention has not entered into force as at the end of April 1991, UNEP, through the ISBC and other UNEP offices concerned, has been working on the implementation of the resolutions of the Basel Conference in order to facilitate the implementation of the provisions of the Convention after it enters into force.

Resolution 1

Establishment of an ad hoc working group for the implementation of the Basel Convention

40. In resolution 1 the Basel Conference invited the Executive Director of UNEP to set up an ad hoc working group of legal and technical experts to consider the necessity of establishing mechanisms for the implementation of the Basel Convention, as provided for in article 15, paragraph 5.

41. In order to implement this resolution, the Executive Director of UNEP sent in December 1990 a letter to all States requesting them to provide him with their views and proposals on this subject in order to enable him to put forward proposals to an ad hoc working group of experts which would be convened in the future. The Interim Secretariat has received 15 replies from Governments as at the end of April 1991. A report will be prepared on the basis of replies from Governments in due course.

Resolution 2

Relationship between the Basel Convention and the London Dumping Convention

42. See section B (para. 24).

Resolution 3

Liability

43. See section A (para. 17).

Resolution 4

Responsibility of States for the implementation of the Basel Convention

44. In accordance with paragraph 5 of resolution 4, the Executive Director of UNEP has forwarded the resolution to the Secretary-General of the United Nations and has circulated it to all States and economic integration organizations. In April 1990 he sent a letter to all States requesting them to urgently implement this resolution and inform UNEP of the steps taken in this regard. By the end of March 1991, only six States have provided UNEP with the details of the steps taken or intended to be taken by the respective Governments. UNEP sent a reminder to Governments in April 1991. The Interim Secretariat is preparing a report on the steps taken by States and economic integration organizations to ensure the entry into force of the Convention and its future implementation. This report will be prepared on the basis of the information from States and organizations and will be presented to the first meeting of the Conference of the Parties.

45. In order to accelerate the entry into force of the Convention:

(a) The Executive Director has sent many letters to the Ministers of Governments concerned;

(b) Brochures on the Basel Convention and its provisions have been widely distributed;

(c) The representatives of the Executive Director visited several countries to discuss matters related to the Basel Convention;

(d) The Interim Secretariat:

(i) Has attended many seminars to highlight the importance of the Convention;

(ii) Has contacted Governments on a regular basis and has encouraged experts and government officials to visit it in order to familiarize them with the activities related to the implementation of the Basel Convention.

Resolution 5

Harmonization of procedures of the Basel Convention and the Code of Practice for International Transactions involving Nuclear Wastes

46. As reqested by the the Conference the Executive Director of UNEP brought this resolution to the attention of the Governing Board and the Director-General of the International Atomic Energy Agency (IAEA).

47. The Interim Secretariat participated in the working group meetings convened to elaborate the Code of Practice for International Transactions involving Nuclear Wastes. Their mandate was to ensure that the provisions of the Basel Convention were fully taken into account in the Code.

48. The General Conference of the IAEA adopted the Code at its thirty-fourth regular session (resolution GC(XXXV)/Res/530(1990). The Code affirms the general principles of the Basel Convention, namely, the sovereign right of every State to prohibit the movement of wastes into, from or through its territory. The Code requires that transboundary movements of radioactive waste should only take place in accordance with internationally accepted safety standards, with prior notification and consent of the exporting, importing and transit States. The Code also provides that all States concerned should have the administrative and technical capacity as well as the regulatory structure required to manage and dispose of radioactive waste in a manner consistent with international safety standards.

49. The IAEA General Conference further decided that it would be desirable to conclude a legally binding instrument on this subject under the auspices of the IAEA.

50. The Executive Director of UNEP sent a letter to the Director-General of IAEA in which he stated that resolution 5 of the Basel Conference had been fully implemented by the adoption of the IAEA Code of Practice.

Resolution 6

Institutional and financial arrangements

51. In response to resolution 6, the Interim Secretariat has been active since November 1989. While its main task at present is to implement the resolutions adopted by the Basel Conference, it has been able to take on other activities, including the follow-up of meetings organized by the United

Nations agencies dealing with hazardous wastes and the drafting of model national legislation, for distribution to countries on their request, on the control of transboundary movements of hazardous wastes and other wastes and their disposal.

52. The Executive Director has sent several letters and reminders to Governments requesting voluntary contributions for the activities of the Interim Secretariat including meetings.

53. Actual expenditure for the activities of the Interim Secretariat from 1989-1990 was $770,000: $400,000 from Governments and $370,000 from the Environment Fund of UNEP.

54. In order to implement the resolutions of the Basel Conference, the Interim Secretariat urgently needs contributions by Governments.

Resolution 7

Cooperation between IMO and UNEP in the review of existing rules, regulations and practices with respect to transport of hazardous wastes by sea

55. See section B (para. 25).

Resolution 8

Establishment of a technical working group to elaborate technical guidelines for the environmentally sound management of wastes subject to the Basel Convention

56. In resolution 8 the Basel Conference called upon the Executive Director of UNEP to establish a Technical Working Group to prepare draft technical guidelines (including costs of the various disposal operations), for the environmentally sound management of wastes subject to this Convention for consideration by the Parties at their first meeting, and eventual adoption.

57. A UNEP consultant drafted a report containing technical guidelines on the subject in 1990. This report is being reviewed by officials of the UNEP International Register of Potentially Toxic Chemicals, the UNEP Industry and Environment Office and the Interim Secretariat. Together with other documentation related to the environmentally sound management of hazardous wastes, it will be considered by an informal small expert meeting to be held in due course. It will then be sent to Governments for their comments before a meeting of experts is convened to consider it.

58. In article 9 the Basel Convention deals specifically with the issue of illegal traffic and provides a definition for it.

59. When the Basel Convention enters into force, the Contracting Parties will use its provisions to improve the control of illegal movements of wastes covered by the Convention. In their annual reporting, the Contracting Parties will also be requested to provide more detailed insight into such matters as the transboundary movements of hazardous wastes and other wastes, including amounts exported, imported, disposed of, etc. Such reports will allow the secretariat of the Basel Convention to monitor more closely international movements of wastes covered by the Convention.

60. With regard to illegal traffic in toxic and dangerous products, both the UNEP London Guidelines on the Exchange of Information on Chemicals in International Trade, as amended in 1989, and the FAO International Code of Conduct on the Distribution and Use of Pesticides, although non-binding instruments, contain provisions which provide a measure of control over illegal trade in certain types of chemical products, including pesticides. These instruments clearly stipulate the duties of Governments in relation to exchange of information on chemicals in international trade. Furthermore, for chemicals banned or severely restricted for health or environmental reasons, both instruments include the principle of prior informed consent. This means that international shipment of a chemical that is banned or severely restricted in order to protect human health or the environment should not proceed without the agreement, where such agreement exists, or contrary to the decision, of the designated national authority in the importing country. The prior informed consent procedure, which will soon be initiated jointly by FAO and UNEP, is a procedure for formally obtaining and disseminating the decisions of importing countries as to whether they wish to receive future shipments of chemicals which have been banned or severely restricted. National authorities in importing countries are expected to take appropriate import control actions, while the authorities of exporting countries are expected to implement appropriate procedures designated to ensure that exports do not conflict with the decisions regarding prior informed consent of participating importing countries. Over 90 Governments have already designated national authorities for this procedure. It is hoped that through active participation of all Governments and industry it will be possible to significantly reduce, if not eliminate, illegal traffic in banned and severely restricted chemicals.